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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,712	08/10/2001	Takahiro Fujita	16869S-031400US	5769
20350	7590	07/28/2004		
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				EXAMINER MOFIZ, APU M
				ART UNIT 2175 PAPER NUMBER

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/927,712	FUJITA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Apu M Mofiz	2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 May 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                           |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Response to Applicant's Remarks***

1. Applicant's arguments submitted on 05/04/04 with respect to claims 1,2,4-7,9 and 10 have been reconsidered but are not deemed persuasive for the reasons set forth below.

Applicant argues (under REMARKS section) that Peter et al's applications (i.e. 44) does not read on recited "server appliance" in claim 1.

Examiner respectfully disagrees. An introductory client server technology book will show that the client of one application can be a server for another application. The Microsoft Computer Dictionary defines Server as "On the Internet or other network, a computer or program that responds to commands from a client." Therefore a program can be both a client and a server. In one computer, a plurality of server and clients can be run. Peter teaches "*Data is randomly distributed on multiple storage units connected with multiple applications using a computer network*" ... "*a file system for a computer enables the computer to access remote independent storage units over a computer network in response to a request, from an application executed on the computer, to read data stored on the storage units.*" ... "*The functionality of the file system also may be provided by another application or through a code library accessible through an application interface.*" ... "*the storage unit 42 may be implemented as a server or as an independently controlled disk storage unit*" (col 2, lines 8-11, lines 65-67; col 3, lines 1-2, lines 58-60; col 11, lines 13-16). The Peter text excerpts clearly indicates that there is a plurality of applications accessing a plurality of remote independently controlled disk

storage units (i.e. 42) over a computer network. Some of the applications provide the file system functionalities that are to retrieve a requested file from a remote disk storage unit. The applications (or some of the applications) respond to requests from another applications and hence work as server of the requested file. Therefore, Examiner has clearly shown that Applicant's argument is not proper.

Applicant argues (under REMARKS section) that Peter et al does not teach or suggest "means for changing said server appliance that access means employed in another server appliance ... can access said disk apparatus."

Examiner respectfully disagrees. Peter teaches "*Data is randomly distributed on multiple storage units connected with multiple applications using a computer network*" ... "*Storage units and applications therefore may be added to or removed from the system. As a result, the system is expandable during operation.*" ... "*a file system for a computer enables the computer to access remote independent storage units over a computer network in response to a request, from an application executed on the computer, to read data stored on the storage units.*" ... "*The functionality of the file system also may be provided by another application or through a code library accessible through an application interface.*" ... "*There also may be several catalog managers that are used by separate client applications.*" ... "*In this manner, a catalog manager is not a central point of failure.*" (col 2, lines 8-11, lines 65-67; col 3, lines 1-2, lines 58-60; col 11, lines 13-16; col 19, lines 5-20) The Peter text excerpts clearly indicates that there is no central point of failure. The server, the disks and everything else are duplicated. A client application can request a file from a server (i.e. another application e.g. a catalog manager), which maintains the file system and can respond to request from a client to retrieve a file from a remote (or local) disk

storage unit. If the server fails (or if storage units or applications are added or removed), it is not a bottleneck or a central point of failure. Other servers (i.e. catalog manager) can function in its place that is to retrieve the requested data from the disk). Additionally, Peter also shows Therefore, Examiner has clearly shown that Applicant's argument is not proper.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2,4-7,9-10 and 11-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Peters et al. (U.S. Patent No. 6,415,373 and Peters hereinafter).

As to claims 1,5,10 and 11-15, Peters teaches a computer system comprising: at least one server appliance (i.e. the application that accesses the storage unit/units to deliver/receive data and processes data) for processing data (Fig.1; col 2, lines 8-67; col 5, lines 30-67; col 6, lines 1-67; col 7, lines 1-67; col 8, lines 1-12); at least one disk apparatus for storing said data (Fig.1; col 2, lines 8-67; col 5, lines 30-67; col 6, lines 1-67; col 7, lines 1-67; col 8, lines 1-12); and means for changing said server appliance for processing the data in such a manner that access means employed in another

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server appliance, which is different from said server appliance for processing said data, can access said disk apparatus (i.e. in the case of an application failure/or a new application being added to the system, other applications can access the storage units) (Fig.1; col 2, lines 8-67; col 5, lines 30-67; col 6, lines 1-67; col 7, lines 1-67; col 8, lines 1-12).

As to claims 2 and 6, Peters teaches that the data is partitioned to be stored in multiple number of disk apparatuses (Fig.1; col 2, lines 8-67; col 5, lines 30-67; col 6, lines 1-67; col 7, lines 1-67; col 8, lines 1-12); and said access means of said server appliance accesses said disk apparatuses storing the partitioned data, whereby loads of said disk apparatuses are distributed (Fig.1; col 2, lines 8-67; col 5, lines 30-67; col 6, lines 1-67; col 7, lines 1-67; col 8, lines 1-12).

As to claims 4 and 9, Peters teaches that when said data is partitioned to be stored in multiple number of disk apparatuses, data copy means of said disk apparatus is used (Fig.1; col 2, lines 8-67; col 5, lines 30-67; col 6, lines 1-67; col 7, lines 1-67; col 8, lines 1-12).

As to claim 7, Peters teaches that the partitioned data is further partitioned; said further-partitioned data (i.e. the data is divided into segments) are stored in multiple number of disk apparatuses (Fig.1; col 2, lines 8-67; col 5, lines 30-67; col 6, lines 1-67; col 7, lines 1-67; col 8, lines 1-12); and said access means of said server appliance

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accesses the multiple number of disk apparatuses storing the further-partitioned data, whereby loads of said disk apparatuses are distributed (Fig.1; col 2, lines 8-67; col 5, lines 30-67; col 6, lines 1-67; col 7, lines 1-67; col 8, lines 1-12).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters et al. (U.S. Patent No. 6,415,373 and Peters hereinafter) in view of Tawil et al. (U.S. Patent No. 6,625,747 and Tawil hereinafter).

As to claims 3, 8 and 16, Tawil teaches a port of said disk apparatus for storing the data and a port of said server appliance for processing said data are changed to distribute loads of said ports, said ports being used to transfer data between said disk apparatus and said server appliance (Abstract; col 2, lines 1-67; col 3, lines 15-20; col 4, lines 42-67; col 5, lines 1-67; col 6, lines 27-67; col 7, lines 1-35).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Peters with the teachings of Tawil to include a port of said disk apparatus for storing the data and a port of said server appliance for processing said data are changed to distribute loads of said ports, said

ports being used to transfer data between said disk apparatus and said server appliance with the motivation to provide a standardized host (i.e. server) fail over method that is not specific to the vendor of the controllers or the host (Tawil; col 3, lines 16-20).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Points of Contact***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Apu M. Mofiz whose telephone number is (703) 605-4240. The examiner can normally be reached on Monday – Thursday 8:00 A.M. to 4:30 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached at (703) 305-3830. The fax numbers for the group is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Apu M. Mofiz  
Patent Examiner  
Art Unit 2175

July 21, 2004

  
DIANE D. MZRAHI  
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